



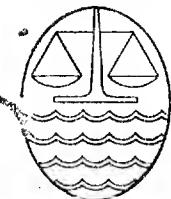
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THIRD CONFERENCE ON THE LAW OF THE SEA



PROVISIONAL

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A/CONF.62/C.2/SR.44
29 August 1974

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Second Session

SECOND COMMITTEE

PROVISIONAL SUMMARY RECORD OF THE FORTY-FOURTH MEETING

Held at the Parque Central, Caracas,
on Tuesday, 27 August 1974, at 10.50 a.m.

Chairman: Mr. AGUILAR Venezuela

Rapporteur: Mr. NANDAN Fiji

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CONSIDERATION OF SUBJECTS AND ISSUES AND RELATED ITEMS: INTRODUCTION OF DRAFT PROPOSALS (continued)

Mr. KAZEMI (Iran) said that, despite his two interventions on the question of the continental shelf, the trend to which his delegation subscribed had not been reflected in provision XIII of the formulation of main trends (Informal Working Paper No. 3/Rev.2) which had been prepared on that subject. Since the Chairman had ruled that all new proposals must be submitted to the Committee in writing, his delegation was constrained to submit the draft article in document A/CONF.62/C.2/L.84. It stipulated that the sovereign rights of the coastal State over its continental shelf were exclusive and that revenues derived from the exploitation of the natural resources of the continental shelf should not be subject to any revenue sharing.

Although it was already too late to include the Iranian draft article in Informal Working Paper No. 3/Rev.2, his delegation hoped that a way could be found to include it in the final consolidated document the Committee intended to produce, since the draft article he had just submitted represented a main trend supported by many delegations, including Canada and Chile.

The CHAIRMAN explained that it would be difficult if not impossible to meet the request made by the representative of Iran owing to the fact that the Committee had decided to limit the number of revisions of the informal working papers to two. The contemplated consolidated document would therefore contain the second revision of all informal working papers. The consolidated document should be considered as a tool designed simply to give an idea of what had been said and done at the present session of the Conference. Those proposals made by delegations after the second revision of the informal working papers would of course become part of the documentation of the Committee which could then be taken up again at any moment at the next session of the Conference. The summary records of the Committee's meetings would also reflect such proposals. Furthermore the enumeration of trends in the informal working papers was not exclusive and did not imply that there were no other trends.

Mr. WARIOBA (United Republic of Tanzania), introducing document A/CONF.62/C.2/L.82, said it would be incorrect to say he was speaking on behalf of all the sponsors, since they had had no time to consult on the introduction of

(Mr. Warioba, Tanzania)

those draft articles to the Committee. The views he would express therefore were mainly those of his own delegation.

The sponsors of that document had been pressed for time in preparing it and it should therefore be regarded as a provisional draft. Revisions would be made and issued in due course. Nevertheless the document was an embodiment of the basic views of its sponsors on the question of the economic zone.

Article I recognized the right of the coastal State to establish an exclusive economic zone beyond its territorial sea.

Article II provided for the sovereignty of the coastal State over the living and non-living resources of the zone and its sovereign rights for the purpose of regulation, control, exploration, exploitation, protection and preservation of such resources. No other State had any right to the resources of the exclusive economic zone with the sole exception of the land-locked and other geographically disadvantaged States referred to in article VI.

Article III recognized the exclusive jurisdiction of the coastal State for the purposes of control, regulation and preservation of the marine environment, control, authorization and regulation of scientific research, and control and regulation of customs and fiscal matters related to economic activities in the zone.

Article IV established the exclusive right of the coastal State to make and enforce regulations in a number of domains.

Article II, III and IV had been conceived to give effect to the basic unity of the economic zone. As defined in the draft articles, the régime of the economic zone was intended to replace any fishery zones, the contiguous zone and the continental shelf.

Article V while recognizing the traditional freedoms of navigation, overflight and laying of submarine cables and pipelines ensured that in the future they would be regulated freedoms.

Article VI was the most important in the draft. Paragraph (1) acknowledged the right of developing land-locked and other geographically disadvantaged States to explore the living resources of the exclusive economic zone of neighbouring States. Paragraph (2) defined the scope of that right and paragraph (3) the modalities of its exercise.

The essence of article VIII was to define a method of delimitation between adjacent and opposite States. An amendment to that article had been inadvertently left out and would appear in a future revision of the document.

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Article IX stipulated that the activities of the coastal State in its economic zone had to be carried out exclusively for peaceful purposes.

Article X prohibited States from constructing, maintaining, deploying or operating any installations or devices military or otherwise in the exclusive economic zone of any other State without its express consent.

Article XI which dealt with the situation of peoples not yet fully independent was not complete. It would be revised and another article dealing with areas under colonial domination which were not susceptible of becoming independent such as rocks and islets would be added later to preclude States with such possessions far from their main territory from benefiting from the provisions of the economic zone in respect of such rocks and islets.

Mr. ABDEL HAMID (Egypt), introducing the draft article on the economic and contiguous zone in document A/CONF.62/C.2/L.78, said that Honduras and Saudi Arabia had decided to co-sponsor the draft. The intention of the draft was to maintain the practice under current international law which had proved its utility for many coastal States. The text of paragraphs (a) and (b) of the draft article was taken from article 24 of the 1958 Geneva Convention on the Territorial Sea and the Contiguous Zone. The outer limits of the economic zone had not yet been established by the Conference, and the reference to those limits had therefore been left blank in the draft. He requested that the draft article should be included in the informal working paper on the economic zone and the contiguous zone.

Mr. KAZEMI (Iran) suggested that, since the draft article in document A/CONF.62/C.2/L.84 could not be included in Informal Working Paper No. 3/Rev.2, it should be included in the second revision of Informal Working Paper No. 4 which had not yet been issued. It could be inserted as Formula B of Provision XXXIII under item 6.7.3, Sovereign rights over natural resources, on page 25 of Informal Working Paper No. 4/Rev.1.

The CHAIRMAN thanked the representative of Iran for his co-operation and said that the draft article could be included in the second revision of Informal Working Paper No. 4.

Mr. OXMAN (United States of America), introducing the draft articles proposed by his delegation concerning the régime of the high seas, (documents A/CONF.62/C.2/L.79 and L.80) said the purpose of the draft article in document A/CONF.62/C.2/L.79 was to seek a moderate solution to the question of how the régime of the high seas would be affected by the new treaty being prepared by the Conference. The régime of the high seas would clearly, at least in certain areas, not continue to exist in its present form. The concept of the economic zone marked a fundamental change in the international law applicable to the high seas. His delegation could not, however, agree that the economic zone should be assimilated to an area that was territorial in character simply by virtue of the fact that the coastal State would exercise substantial rights in that economic zone. It had considered many alternative solutions and the draft article in document A/CONF.62/C.2/L.79 was not the solution he would have preferred, but it had seemed, after consultation with many delegations, the most promising approach to the question. Unlike the other 1958 Conventions on the law of the sea, the Convention on the High Seas stated in the preamble that it was a codification of international law. Although that did not, of course, mean that it could not be changed, he felt that, as many of the matters regulated in that Convention were not of fundamental importance to the Conference, it would be appropriate to expedite the Conference's work by incorporating in the new treaty the provisions of that Convention on the High Seas as modified by new provisions governing the high seas, the economic zone, the continental shelf, the protection of the marine environment, scientific research and the international sea-bed area. Matters such as piracy, criminal and civil jurisdiction on ships and the duties of other States could, he felt, continue to be regulated by the provisions of the Geneva Convention. There were other international conventions applicable to the high seas, and care should be taken in the wording used in the draft articles on the high seas. He hoped that the draft article in document A/CONF.62/C.2/L.79 would be considered in the spirit of neutrality in which it had been submitted.

Introducing the draft article on fisheries management (document A/CONF.62/C.2/L.80), he noted that the first paragraph provided for a flexible approach to management arrangements recommending co-operation among States through fisheries management agreements or multilateral fisheries organizations; it also provided for recourse to

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the Food and Agriculture Organization if the States concerned could not establish a fisheries organization. The primary thrust of the provision was to place responsibility for co-operation on the States concerned. The second paragraph dealt with the duty to conserve the living resources beyond the economic zone. He agreed with those who maintained that the conservation duty of the coastal State in the economic zone and of other States beyond the economic zone was the same. In that connexion he referred to the proposal on the economic zone submitted by his delegation in document A/CONF.62/C.2/L.47. The third paragraph dealt with certain provisions in areas within and beyond the economic zone with respect to anadromous species and highly migratory species. His delegation had already stated its views on the management of such species.

He requested that the formulation in paragraph 27 (a) of document A/CONF.62/C.2/L.47, which had been supported by several delegations, should be included in the informal working paper on the continental shelf.

The CHAIRMAN said that no further proposals could be included in the informal working paper on the continental shelf as the second revision had already been published.

Mr. SALLAH (Gambia) announced that his delegation would co-sponsor document A/CONF.62/C.2/L.82.

Mr. BEESLEY (Canada), commenting on his delegation's working paper dealing with anadromous species (A/CONF.62/C.2/L.81), said that the paper did not contain any proposal as to the kind of régime which should be established for those species. Its purpose was to illustrate the peculiarities of the anadromous species which required special provisions in the future convention.

In submitting document A/CONF.62/C.2/L.83, his delegation was concerned with providing an exact definition of an international strait. The definitions which had been worked out thus far left open the possibility that they might equally well be applied to canals. The Canadian definition therefore specified the natural character of international straits.

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(Mr. Beesley, Canada)

According to the Canadian definition, an international strait lay within the territorial sea of one or more States, since logically the question of a special régime for international straits would not even arise if such straits were situated within the high seas. It was also important to take into account when defining international straits the extent to which they had traditionally been used for international navigation and a provision to that effect had been included in the Canadian definition.

Mr. ABBADI (Secretary of the Committee) announced that Swaziland had withdrawn its sponsorship of document A/CONF.62/C.2/L.82. Yemen and Malaysia had requested to be added to the list of sponsors of document A/CONF.62/C.2/L.16. Saudi Arabia and Honduras wished to join the sponsors of document A/CONF.62/C.2/L.78.

The meeting rose at 11.35 a.m.